



HCP.No.902/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.902/2023

Revathi

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Petitioner

Versus

- 1.The State of Tamil Nadu
rep.by the Secretary to Government
Prohibition & Excise Department
Fort St George, Chennai - 9.
- 2.The Commissioner/Detaining Authority
Commissioner Office, Tiruppur.
- 3.The Superintendent of Police
Central Prison, Coimbatore.
- 4.The Inspector of Police
Anuparpalayam Police Station
Tiruppur.

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Respondents



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Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the entire records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order dated 22.02.2023 on the file of the 2nd respondent herein made in proceedings C.No.04/G/IS/Tiruppur City/2023, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Sathishkumar @ Sathish, son of Sait, aged 30 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.Deepan Uday

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

(1)The petitioner, mother of the detenu Nirmaldass @ Dass, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 22.02.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral



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Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

- (2) Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.
- (3) Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that there is a delay in passing the order of detention. In the present case, though the detenu was arrested on 14.01.2023, the Detention Order was passed only on 22.02.2023.
- (4) The Hon'ble Supreme Court in the case of ***Sushantha Kumar Banik Vs. State of Tripura and Others*** reported in ***AIR 2022 SC 4715***, has dealt with similar situation and has held in paragraph No.21 as follows:-

"In the present case, the circumstances indicate that the detaining authority after the receipt of the proposal from the sponsoring authority was indifferent in passing the order of detention with greater promptitude. The "live and proximate link" between the grounds of detention and the purpose of detention stood snapped in arresting the detenu. More importantly the delay has not been explained in any manner & though this point of delay was specifically raised & argued before the High Court as evident from Para 14 of



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the impugned judgment yet the High Court has not recorded any finding on the same.”

(5) The Hon'ble Supreme Court was persuaded to allow the Appeal filed before it mainly on the ground that delay in passing the Order of Detention from the date of the proposal would snap the "live and proximate link" between prejudicial activities and the purpose of detention. Therefore, failure on the part of the Detaining Authority in explaining such delay as in the present case also is a valid ground for quashing the Detention Order.

(6) Further, though the petitioner is involved in three adverse cases, of which two cases are registered in the year 2022 for the commission of offence of theft and the other adverse case is registered in the year 2023 for commission of the very same offence, this Court finds that the detenu is not involved in any serious crime.

(7) In view of the aforesaid reasons, the detention order passed by the 2nd respondent dated 22.02.2023 in C.No.04/G/IS/Tiruppur City/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Sathishkumar @ Sathish, son of Sait, aged 30 years, is directed to be



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set at liberty forthwith unless he is required in connection with any other case.

[S.S.S.R., J.] [S.M, J.]
09.10.2023

AP

To

- 1.The Secretary to Government
State of Tamil Nadu
Prohibition & Excise Department
Fort St George, Chennai - 9.
- 2.The Commissioner/Detaining Authority
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- 5.The Public Prosecutor
High Court, Madras.



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AND
SUNDER MOHAN, J.,

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